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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2018-0100; Notice No. 2018-21]

Hazardous Materials: Emergency Waiver No. 10

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of emergency waiver order.

SUMMARY: PHMSA is issuing an emergency waiver order to persons conducting operations under the direction of Environmental Protection Agency (EPA) Region 9 or United States Coast Guard (USCG) Eleventh District within the California Wildfire emergency area. The Waiver is granted to support the EPA and USCG in taking appropriate actions to prepare for, respond to, and recover from a threat to public health, welfare, or the environment caused by actual or potential oil and hazardous materials incidents resulting from the California Wildfires. This Waiver Order is effective immediately and shall remain in effect for 30 days from the date of issuance.

FOR FURTHER INFORMATION CONTACT: Adam Horsley, Deputy Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, telephone: (202) 366-4400.

SUPPLEMENTARY INFORMATION:

In accordance with the provisions of 49 U.S.C. 5103(c), the Administrator for the Pipeline and Hazardous Materials Safety Administration (PHMSA), hereby declares that an emergency exists that warrants issuance of a Waiver of the Hazardous Materials

Regulations (HMR, 49 CFR parts 171-180) to persons conducting operations under the direction of EPA Region 9 or USCG Eleventh District within the California Wildfire emergency area. The Waiver is granted to support the EPA and USCG in taking appropriate actions to prepare for, respond to, and recover from a threat to public health, welfare, or the environment caused by actual or potential oil and hazardous materials incidents resulting from the California Wildfires.

On November 9, 2018, the President issued an Emergency Declaration for the California Wildfires for the counties of Butte, Los Angeles, and Ventura (EM-3409). The President declared a major disaster in California on November 12, 2018 (DR-4407).

This Waiver Order covers all areas identified in the declarations, as amended. Pursuant to 49 U.S.C. 5103(c), PHMSA has authority delegated by the Secretary (49 CFR 1.97(b)(3)) to waive compliance with any part of the HMR provided that the grant of the waiver is: (1) in the public interest; (2) not inconsistent with the safety of transporting hazardous materials; and (3) necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

Given the continuing impacts caused by the California Wildfires, PHMSA's Administrator has determined that regulatory relief is in the public interest and necessary to ensure the safe transportation in commerce of hazardous materials while the EPA and USCG execute their recovery and cleanup efforts in California. Specifically, PHMSA's Administrator finds that issuing this Waiver Order will allow the EPA and USCG to

conduct their Emergency Support Function #10 response activities under the National Response Framework to safely remove, transport, and dispose of hazardous materials. By execution of this Waiver Order, persons conducting operations under the direction of EPA Region 9 or USCG Eleventh District within the California Wildfire emergency area are authorized to offer and transport non-radioactive hazardous materials under alternative safety requirements imposed by EPA Region 9 or USCG Eleventh District when compliance with the HMR is not practicable. Under this Waiver Order, non-radioactive hazardous materials may be transported to staging areas within 50 miles of the point of origin. Further transportation of the hazardous materials from staging areas must be in full compliance with the HMR.

This Waiver Order is effective immediately and shall remain in effect for 30 days from the date of issuance.

Issued in Washington, D.C., on November 13, 2018.

Howard R. Elliott,
Administrator,
Pipeline and Hazardous Materials Safety Administration.
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